



Commercial Edible Food Recovery

Did you know that beginning January 1, 2022 certain food generating businesses will be required to donate surplus edible food, and all businesses will be required to recycle food scraps (**SB 1383, County of San Diego Solid Waste Ordinance**)? By donating surplus edible food and recycling food scraps, organic materials are kept out of landfills, resulting in less methane emissions and putting communities closer to meeting the statewide goal of 20% food recovery of surplus edible food that would have otherwise gone to landfill by 2025.

While 1 in 7 San Diegans don't know where their next meal is coming from, up to 40% of food grown in the United States is never eaten. Edible food recovery and food waste reduction programs help save businesses money while also having positive environmental and societal impacts.

Does my business need to donate surplus edible food? (Defining Tier 1 & Tier 2 Generators)



If a business does not meet one of the below definitions, they will not be required to donate surplus edible food. However, food donation is still encouraged and is an excellent way of helping to meet the state & local requirements of diverting food from the landfill.

Please review the following definitions to determine whether your business is categorized as a Tier 1 or Tier 2 Commercial Edible Food Generator.

The following **Tier 1 Generators** will be required to arrange for the maximum amount of surplus edible food recovery, and have donation contract(s) in place, starting Jan 1, 2022:

- **Food Distributor** is defined as a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.
- **Wholesale Food Vendor** is defined as a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
- **Food Service Provider** is defined as an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations or others based on contractual arrangements with these types of organizations.
- **Grocery Store** is defined as a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, with a total facility size equal to or greater than 10,000 square feet.
- **Supermarket** (or Variety Store with Groceries) is defined as a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

The following **Tier 2 Generators** will be required to arrange for the maximum amount of surplus edible food recovery, and have donation contract(s) in place, starting Jan 1, 2024:

- **Restaurant** is defined as with an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption with 250 or more seats, OR a total facility size equal to or greater than 5,000 square feet.
- **Health facility** has the same meaning as in Section 1250 of the Health and Safety Code, with an on-site food facility and 100 or more beds,
- **Hotel** has the same meaning as in Section 17210 of the Business and Professions code, with an on-site food facility and 200 or more rooms,
- **Large Venue** means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility.
 - For the purposes of this bill, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility.
 - For the purposes of this bill, a site under common ownership or control that includes more than one large venue that is 1 contiguous with other large venues in the site, is a single large venue.
- **Large Event** means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.
- **Local Education Agency** is defined as a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, with an on-site food facility.
- **State Agencies** with a cafeteria with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet.

For additional assistance in determining whether your business is a Tier 1 or Tier 2 Commercial Edible Food Generator, please contact recycle@sdcountry.ca.gov.

If your business is a Tier 1 or Tier 2 commercial edible food generator, as identified above, there are certain requirements that must be met.

- **Maintain contracts** with food recovery organizations and services to arrange for the maximum amount of surplus edible food recovery. This may mean contracting with multiple agencies depending on an agency's capacity to recover certain types of food, or food recovery frequency, relative to what your business generates.
 - See Resources below for a food recovery partnership form.
- **Maintain records** that include a list of each food recovery organization or service that collects or receives your surplus edible food and copies of contracts/written agreements with food recovery organizations and/or services. Additionally, records are to include the name, address, and contact information of each food recovery organization and/or service, as well as the types of food and frequency of donation.
 - Businesses must also maintain records of the quantities of surplus edible food recovered (in pounds per month) and make all records and contracts available to the County during inspections.
- Noncompliance is subject to an Administrative Citation with escalating penalties.

Commercial Edible Food Generators

Tier 1

January 1, 2022

Tier one businesses typically have more produce, fresh grocery, and shelf-stable foods to donate.

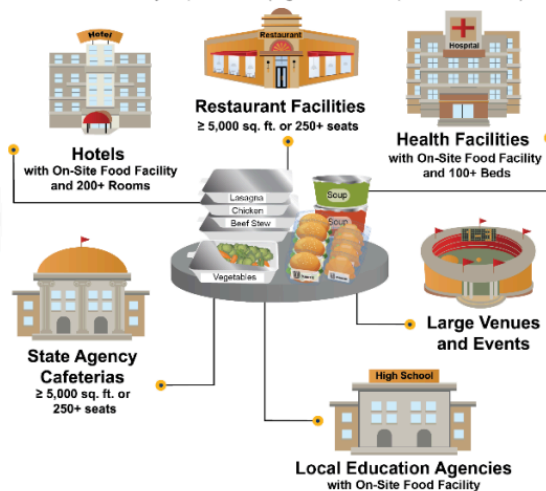


Grocery Stores \geq 10,000 sq. ft. and Supermarkets

Tier 2

January 1, 2024

Tier two businesses typically have more prepared foods to donate, which often require more careful handling to meet food safety requirements (e.g. time and temperature controls).



Restaurant Facilities \geq 5,000 sq. ft. or 250+ seats

Hotels with On-Site Food Facility and 200+ Rooms

Health Facilities with On-Site Food Facility and 100+ Beds

State Agency Cafeterias \geq 5,000 sq. ft. or 250+ seats

Large Venues and Events

Local Education Agencies with On-Site Food Facility

The Wasted Food Scale

The Environmental Protection Agency (EPA) has created a **Wasted Food Scale** to prioritize actions that prevent and divert wasted food. While composting is preferable to landfilling, we should consider source reduction and feeding hungry people first.

To donate surplus edible food, please contact a **Food Recovery Organization** to implement a food recovery program tailored to your business' needs.

Donate from your farm: Did you know you can donate the food from your backyard orchard or garden? Gleaning groups will come pick the fruit and veggies for you and donate the food to those in need. [Click here](#) to learn more about gleaning in San Diego.

For more tips on food waste reduction, please visit our **Residential Food Waste Reduction webpage**. Many of the tips found there are applicable on a larger scale for businesses as well!



How does the law protect businesses from liability?

The "Bill Emerson Good Samaritan Food Donation Act" (**Public Law 104-210**) makes it easier for businesses to donate to food rescue and food bank programs. It protects donors from liability when donating to nonprofit organizations and protects donors from civil and criminal liability should the product donated in good faith cause harm to the needy recipient.

Tax Benefits for Donating Food

Food donors are advised to consult with their tax adviser for information on tax deductions. For information on tax credit in California, please see the **Chapter 503, Statutes of 2011** (Fuentes, AB 152), regarding donations to food banks, voluntary contributions, and income tax credits.

Free Program Assistance & Resources

The County of San Diego offers FREE assistance and promotional materials to businesses including custom waste stream recommendations, right-sizing services, training, signage, and recycling bins (as available). Please contact a Recycling Specialist at Recycle@sdcounty.ca.gov or 858-694-2456 for details.

- **Promotional Materials**

Food Donation Resources +

- **Food Recovery Organizations: A Guide to SB 1383**
- **Food Recovery Partnership Form**
- **List of Food Recovery Organizations**
- **SB 1383 Food Recovery Compliance Guide**
- **Food Donation Checklist & Food Safety Guide**
- Food Donation: Liability FAQ's
 - **English | Spanish**
- **USDA Food Donation Information**
- **Food Waste Prevention & Donation Newsletter**
- **Food Donor CalRecycle Webpage**
- **Food Recovery Organization CalRecycle Webpage**
- **IRS Charitable Contribution Deductions**

Local Food Waste Prevention Groups +

- **San Diego North County Alliance** - The **North County Food Policy Council** meets every other month to address the unmet food security needs of the residents of North County and to increase access to a secure and nutritionally quality food supply and food shed. To learn more or sign up for meeting notifications, click [here](#).

Recycling Programs

Recycling ▼

ReThink Waste ▼

Organics & Composting ▼

Guides & Resources ▼